

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAVANTE MIRACLE
VANBUREN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KISHA¹ VANBUREN,

Respondent-Appellant.

UNPUBLISHED

February 3, 2005

No. 256663

Wayne Circuit Court

Family Division

LC No. 00-423770

Before: Zahra, P.J., and Neff and Cooper, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(b)(i), (j), and (k)(iii). We affirm.

Respondent does not contest the trial court's finding that the statutory grounds for termination were established by clear and convincing evidence, but argues that termination of her parental rights was contrary to the minor child's best interests. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court must order termination of parental rights unless the court finds from the evidence that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.* at 356-357. A best interests determination is meant to protect the child and also provides additional protection to a respondent by offering an opportunity to avoid termination when a statutory ground has been established. *Id.* at 354-356, 365.

The trial court did not clearly err in making the best interests determination. Respondent severely beat the minor child, and she and her boyfriend pleaded guilty to fourth-degree child abuse. The four-year-old child stated that respondent often hit him with a stick and locked him in a closet, and that respondent's boyfriend held him down during the beating. The trial court

¹ Respondent's name is spelled Keisha Vanburen in the lower court record.

found respondent's contradictory testimony that she did not discipline with a stick or by locking the child in a closet and that her boyfriend never disciplined the child less than credible. The evidence tended to show that respondent's discipline amounted to abuse, that she physically disciplined quite frequently, and that she was not likely to correct her method or frequency of discipline. Respondent also had difficulty recognizing that her methods of discipline constituted abuse.

The evidence also tended to show that the child was not safe, happy, and comfortable living in respondent's home. In the past, he sometimes cried when having to go home with respondent after spending the day with his paternal grandmother, and he did not mention respondent after being removed from her home. The child's father was dropped as a respondent in this proceeding, which indicates that the agency found his care of the child appropriate. The evidence established that the child was safe and well cared for with his father and paternal grandmother, but that he would likely suffer frequent, inappropriate physical discipline if he lived with respondent. In light of the evidence, the trial court did not clearly err in determining that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Brian K. Zahra
/s/ Janet T. Neff
/s/ Jessica R. Cooper